IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2031 OF 2006

Mahadeo W.Shetye. ...Petitioner.

Vs.

C.E.O., S.R.A. & Ors. ...Respondents.

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Mr.S.S.Redekar for the Petitioner.

Mr.E.K.Sashidharan for Respondent No.7.

Ms.Mamata Sadh, AGP for Respondent No.3.

CORAM : DR.D.Y.CHANDRACHUD, J.

August 21, 2006.

P.C. :

The dispute in the present case relates to the question as to whether the Petitioner or the Seventh Respondent is eligible to the benefit of alternative accommodation in a Slum Rehabilitation Scheme. Initially it was the Petitioner who had been held to be eligible and, Annexure-II certifying the list of eligible occupants was accordingly issued containing the name of the

Petitioner. On the application filed by the Seventh Respondent, the Slum Rehabilitation Authority (SRA) upon scrutinising the documents came to the conclusion that it is the Seventh Respondent who is eligible.

The documents on which the Seventh Respondent has based his claim include the instrument of transfer dated 15th July 1981 by which the owner of the hut, Sitaram Ganu Narkar transferred the hut to the Seventh Respondent. The pitch holder's card stood in the name of the original owner, Narkar. The Shops and Establishments certificate which initially stood in the name of the erstwhile owner incorporated the name of the Seventh Respondent upon transfer. The Seventh Respondent obtained an electric connection in his name as far back as in 1984. The compilation of documents that has been placed on the record by the Seventh Respondent contains electricity bills right from 1984 which stood in the name of the Seventh Respondent. The Seventh Respondent has also buttressed his claim by referring to a notice that was issued to him by the Municipal Corporation under Section 351 of the

Mumbai Municipal Corporation Act, 1888 as far back as on 19th October 1982. The developer had in fact, initially entered into an agreement with the Seventh Respondent on 6th July 2001.

The Petitioner is related to the Seventh Respondent, being his nephew. It would appear from the order passed by the SRA that the Petitioner obtained a certification of his eligibility by misrepresenting that the name of his mother Smt.Sangita figured in the voter's list of 1995. In fact, it is now not disputed between the Counsel for the parties that Sangita is not the mother of the Petitioner but the daughter of the Seventh Respondent. The Seventh Respondent has placed the Electoral Identity Card of his daughter who is now married, in the compilation of documents together with her birth certificate dated 5th July 1972. The Shops and Establishments Certificate that is annexed at Exh.A to the Petition stands in the name of the Seventh Respondent. It would appear that it was only in February 2005 that the Petitioner obtained a Shops and Establishments certificate in his name. The Petitioner also got the electricity meter transferred to his name in May 2006, but this

was reversed in July 2006 to the name of the Seventh Respondent on the objection lodged by the Seventh Respondent. The only other documentary evidence that the Petitioner has is a receipt for payment of Profession Tax. The SRA has correctly come to the conclusion that the Petitioner has not proved his claim. It is the case of the Seventh Respondent that the petitioner being his nephew was permitted to do business with him in the shop. The Petitioner unlawfully attempted to obtain a certificate of his eligibility on the basis of misrepresentation.

The Slum Rehabilitation Authority has considered all the documentary evidence produced on behalf of the Petitioner and the Seventh Respondent. In the exercise of the writ jurisdiction under Article 226 this Court would not be justified in reappreciating the evidence and substituting its own opinion in place of the finding arrived at on the basis of the documents which were produced before the Slum Rehabilitation Authority. The documents relied upon by the Seventh Respondent show that the hut stood in the name of the Seventh Respondent and the Seventh

Respondent was in occupation. In these circumstances no case for interference is made out. The Petition is dismissed.

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